Supreme Court, U.S.
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No. 04-783

In The

Supreme Court of the United States

IN RE: MICHAEL R. SHEMONSKY,

Petitioner.

PETITION FOR WRIT OF MANDAMUS

MICHAEL R. SHEMONSKY
268 Washington Street
East Stroudsburg, PA 18301
570-421-8260

QUESTIONS PRESENTED

1. Can Judge Vanaskie issue an order from the bench without a complaint or adverse party?

2. Can the F.B.I. arrest a citizen without a warrant, indictment or due cause?

3. Can a United States District Court judge commit perjury in an F.B.I. complaint?

4. Can an Assistant U.S. Attorney have you arrested, to keep you out of harm's way, because the U.S. Marshals were ordered to commit premeditated murder?

5. Can an Assistant U.S. Attorney call Petitioner's son, a minor at the time of the phone call, in an effort to intimidate him and libel Petitioner?

6. Can Judge Vanaskie inflict serious and irreparable harm to Atlantic Financial via an injunction on Petitioner?

7. Can Judge Vanaskie issue an injunction when the pending actions were removals from state court?

8. Can an illegal arrest and commitment toll the statute for the Federal Claims Court?

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PETITION FOR WRIT OF MANDAMUS

Petitioner, Michael R. Shemonsky, respectfully prays that a Writ of Mandamus be issued upon the United States Court of Appeals for the Federal Circuit to compel them to void the injunction against Michael R. Shemonsky and to return the assets of Atlantic Financial plus court awarded damages from 1-11-90.

OPINIONS BELOW

The unpublished opinion of the United States Court of Appeals for the Federal Circuit appears in Appendix A. The unpublished opinion of the Third Circuit Court of Appeals appears in Appendix B. The unpublished opinions of the United States District Court for the Middle District of Pennsylvania appear in Appendix C.

JURISDICTION

The Court of Appeals order in this matter was filed February 26, 2003. This court's jurisdiction is invoked under Title 28 U.S.C. Section 1651(A).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment V to the United States Constitution is set forth in Appendix C, exhibit to this petition.

STATEMENT OF THE CASE

Michael R. Shemonsky, Petitioner, is the alter ego of Atlantic Financial, a savings and loan.

On May 1, 1982, Atlantic Financial loaned the United States government $458,654,000.00 at 45% interest compounded daily for supervisory goodwill contracts.

On August 9, 1989, the United States government breached its supervisory goodwill contracts with the passage of FIRREA, a Fifth Amendment taking.

On January 11, 1990, M. Danny Wall, the unconstitutionally appointed director of the Office of Thrift Supervision illegally and fraudulently seized Atlantic Financial even though our receivable totaled $1,064,422,970.00 from the United States government (U.S. v. Winstar Corp. et al., 518 US 839 (1996)).

On January 7, 1994, the F.B.I. illegally arrested the Petitioner without a warrant or indictment. (Violation of the Fifth Amendment of the Constitution.)

On January 16, 2003, Thomas Vanaskie, Chief Judge of the United States District Court for the Middle District of Pennsylvania, ordered an injunction from the bench without a hearing, restraining Petitioner from filing any papers in any court pertaining to his illegal arrest and/or Atlantic Financial. (Violation of the Fifth Amendment of the Constitution.)

On August 17, 2004, the Third Circuit Court of Appeals denied judicial fraud on case 90-5392, subject to Supreme Court review.

REASONS FOR GRANTING THE WRIT

1. Shemonsky, the party seeking the writ, does not have any other means to obtain the desired relief due to fraud by the United States government.

2. Shemonsky was harmed by a prejudicial appeal by the Third Circuit Court of Appeals and the United States Court of Appeals for the Federal Circuit.

3. The United States Court of Appeals for the Federal Circuit and the Third Circuit erred and abused their discretion.

4. The Judge of the United States District Court for the Middle District of Pennsylvania erred and abused his discretion.

5. The writ raises important and novel problems or issues of law.

REASONS FOR NOT MAKING APPLICATION IN THE DISTRICT

The writ raises constitutional issues concerning the illegal arrest by the F.B.I. and subsequent commitment by the court, as well as the illegal restraining order by the United States District Court for the Middle District of Pennsylvania with multiple criminal violations by the judicial officers of the court.

EXCEPTIONAL CIRCUMSTANCES TO WARRANT THE COURT'S DISCRETIONARY POWERS

Petitioner bought stocks and bonds in a savings and loan, Atlantic Financial Federal, and has been arrested by the F.B.I. and committed to Butner North Carolina Mental Hospital. Also Petitioner has numerous injunctions against him, put in place by the Third Circuit Court of Appeals, the United States District Court for the Eastern District of Pennsylvania and the United States District Court for the Middle District of Pennsylvania. Petitioner has proven to the F.B.I. Bank Fraud Squad in Philadelphia, Pennsylvania, that the savings and loan crisis was indeed a beguiling by Ronald Reagan and George H.W. Bush. Petitioner has found no other means of obtaining relief from any other court.

CONCLUSION

It is the opinion of Petitioner that there has been a conspiracy by the United States government and its judicial system. Therefore, petitioner seeks relief through the exercise of this Court's powers.

Dated: December 7, 2004

Respectfully submitted,

MICHAEL R. SHEMONSKY
268 Washington Street
East Stroudsburg, PA 18301
570-421-8260

APPENDIX A

NOTE: Pursuant to Fed. Cir. R. 47.6, this order is not citable as precedent. It is a public order.

United States Court of Appeals for the Federal Circuit

03-1169

MICHAEL R. SHEMONSKY,

Plaintiff-Appellant,

v.

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA,

Defendant-Appellee.

(Filed Feb. 26, 2003)

Before MICHEL, RADER, and SCHALL, *Circuit Judges.*

MICHEL, *Circuit Judge.*

ORDER

The court considers whether Michael R. Shemonsky's appeal should be dismissed for lack of jurisdiction.

Shemonsky filed a "Complaint – Writ of Error" in the United States District Court for the Middle District of Pennsylvania naming that court as the defendant, 02-1410. He founded his complaint on civil rights laws and RICO, and named certain Constitutional amendments. On October 28, 2002, the district court dismissed the complaint with prejudice. The district court concluded that the complaint, in essence, was an attempt to relitigate a 2000 district court decision, which itself was an attempt to reopen a 10-year old case. The district court concluded

that it lacked jurisdiction over Shemonsky's complaint and dismissed. Shemonsky directed his appeal to this court.

We conclude that we lack jurisdiction over the appeal. The only statutory provision that could provide a basis for this court's jurisdiction is 28 U.S.C. § 1295(a)(2), which grants this court jurisdiction to review decisions of district courts that are based in whole or in part on 28 U.S.C. § 1346(a)(2), the so-called Little Tucker Act. However, Shemonsky did not allege jurisdiction under § 1346(a)(2) and that provision does not encompass suits against courts for "wrong" decisions. *See generally United States v. Mitchell*, 463 U.S. 206 (1983).

Although the United States Court of Appeals for the Third Circuit has jurisdiction to review the district court's decision, 28 U.S.C. § 1291, we decline to transfer under 28 U.S.C. § 1631 because we conclude it is not in the interest of justice (when an appeal is filed in a court that finds it lacks jurisdiction, that court may transfer to the appropriate court "if it is in the interest of justice"). We note that the district court found Shemonsky's complaint to be "frivolous and harassing." We agree. Further, the district court took notice of the following statement of the Third Circuit in its previous appeal:

> The instant appeal is the result of yet another notice of appeal filed by Shemonsky in response to an order entered by the District Court on September 28, 2000, which merely advised Shemonsky that the case was closed as of January 23, 1993. (Dkt. # 23). As this appeal presents no substantial questions, see I.O.P. 10.6, we will summarily affirm the District Court's order. We note that we have no qualms with an order that seeks

to discourage the filing of additional motions in a case which has been closed for over seven years.

Accordingly,

IT IS ORDERED THAT:

The appeal is dismissed.

FOR THE COURT

FEB 26 2003 /s/ Paul R. Michel
Date Paul R. Michel
Circuit Judge

cc: Michael R. Shemonsky
Michael D. Panzera, Esq.
Clerk, USCA for Third Circuit

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APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 02-3813, 02-3979 & Undocketed Appeal

Shemonsky v. United States District Court
(M.D. Pa. No. 02-cv-01410)

The notice of appeal which has been docketed in this Court at No. 02-3813 is addressed to the United States Court of Appeals for the Federal Circuit. Accordingly, appeal No. 02-3813 is administratively terminated as having been opened in error and the notice of appeal is returned to the District Court to be forwarded to the Federal Circuit which appellant named as the Court to which the appeal was directed. Likewise, the appeal received by this Court on November 1, 2002 which has not been docketed is also returned to the District Court to be forwarded to the Federal Circuit. In returning these appeals, no opinion is expressed as to whether the notices of appeal would properly be before the Federal Circuit, as opposed to this Court, or as to any other jurisdictional issue but rather, this action is based solely on appellant's direction in the notices.

A copy of this Order together with copies of the notices of appeal returned to the District Court are referred to the panel of judges which will consider the jurisdictional issue in appeal No. 02-3979, which was filed in the same civil action but which is directed to this Circuit, for their information. Likewise, a copy of this Order and the returned notices of appeal will be sent to the panel of judges which will consider the Petition for Writ of Mandamus at

No. 02-4081, which is related to the same civil action, for their information.

For the Court,

/s/ Marcia M. Waldron
Clerk

Dated: November 25, 2002

DRC/cc: Mr. Michael Shemonsky
Mary C. Frye, Esq.

APPENDIX C

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MICHAEL R. SHEMONSKY,	
Plaintiff,	
vs	**No. 02-CV-1410**
UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA,	**(Filed Oct. 28, 2002)**
Defendant.	

ORDER

AND NOW, on this 24th day of October, 2002, upon consideration of Plaintiff's Complaint, filed August 9, 2002, Defendant's Motion to Dismiss and accompanying Brief in Support of Motion to Dismiss, filed October 10, 2002, plaintiff's Brief in Opposition to Motion to Dismiss, dated October 14, 2002, and Defendant's Reply Brief, filed October 17, 2002, and plaintiff's Petition for Rehearing, filed August 29, 2002, it is hereby ORDERED THAT

1. The defendant's Motion to Dismiss, filed on October 10, 2002, is GRANTED and the plaintiff's complaint is DISMISSED WITH PREJUDICE;
2. The plaintiff's Petition for Rehearing, filed on August 29, 2002, is DISMISSED WITH PREJUDICE;
3. The Clerk shall close this case statistically.

BY THE COURT

/s/ [Illegible]
Franklin S. Van Antwerpen, U.S.D.J

APPENDIX D

The Constitution

AMENDMENT V [1791]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.